

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

OOO "GARANT-S")	
)	
Plaintiff,)	
)	
v.)	Case No.: 11-CV-1324-FB-LB
)	
EMPIRE UNITED LINES CO., INC. et al.)	
)	
Defendants.)	

**RESPONSE TO COURT ORDER TO SHOW GOOD CAUSE AND MOTION TO
EXTEND TIME TO EFFECT SERVICE OF PROCESS AND TO ACCEPT PROOF OF
SERVICE OF PROCESS AS TIMELY FILED**

The plaintiff, OOO Garant-S (hereinafter referred to as "Plaintiff"), by and through the undersigned counsel, responds to the Court's order to show cause and moves the Court to extend the time to effect service of process on the defendants in the captioned action to July 21, 2011. In support of its motion, Plaintiff states as follows:

1. The captioned action was filed on March 18, 2011. The action stems from transactions that occurred in late 2010. The statute of limitations on Plaintiff's claims will not run out until well after the end of 2011.
2. Somehow, the defendants learned of the filing of this lawsuit, approached Plaintiff and engaged Plaintiff in settlement discussions. Specifically, defendant Michael Khitrinov, who is also the principal officer of defendant Empire United Lines, contacted Plaintiff's counsel to express a desire to settle the case amicably. The parties have gone back and forth, with their respective offers for settling this action, with Mr. Khitrinov requesting that he not be served in this action while settlement negotiations were ongoing.

Unfortunately, to date, the settlement negotiations have not produced a settlement, though some progress has been made.

3. On July 21, 2011, Plaintiff effected service on both defendants. Proof of service is being filed contemporaneously herewith.
4. No party has been prejudiced by the delay, however brief, particularly when Mr. Khitrinov himself had requested that service be delayed.
5. Pursuant to Rule 4 of the Federal Rules of Civil Procedure, any dismissal of this action for failure to effect service within 120 days must be without prejudice, and would only result in a re-filing of this action, which would only cause unnecessary expense.

Conversely, Rule 4 states that the Court must extend the deadline for service of process for good cause shown.

WHEREFORE, in light of the circumstances described above and for good cause shown, Plaintiff respectfully requests that this Court extend the time to serve process on the defendants to July 21, 2011, *nunc pro tunc* and/or accept proof of service as timely filed.

Respectfully submitted,

/s/

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